



Sexual Messaging: The Problem

The NSPCC's *Flaw in the Law* campaign aims to make it always illegal for an adult to send a child a sexual message.

The current law in this area is fragmented and confused, making it hard for the Police to deal with sexual messaging appropriately. Legislation covering this predates the widespread use of the internet and fails to recognise the nature of grooming, where the abuser aims to flatter the child rather than send indecent or offensive communications.

Vital opportunities to stop abusers grooming young people online are being missed. Changing the law would reduce the risk to children and young people and help keep them safe online.

Last year, there was a **168% increase** in contacts to ChildLine about online sexual abuse.

Sexual Messaging: The Solution

By introducing a new clause to the Serious Crime Bill that would amend the Sexual Offences Act (2003), the NSPCC is calling for the creation of a stand-alone offence of an adult intentionally sending a child a sexual message. This would have numerous positive effects to protect children from online abuse. Specifically it would help protect children from unwanted and distressing sexualised contact online, enable action to be taken against offenders at an earlier stage of the grooming process, and help prevent abuse escalating.

Views of the Police

The Police have been clear this is a major issue, on which they receive reports but find it incredibly hard to take action. Changing the law would **enhance their ability to intervene and prevent abuse escalating**.

1. The **Head of the Sexual Exploitation Unit at Nottinghamshire Police** has said: *"This is a major issue for us within sexual exploitation investigation. The behaviour is commonly referred to as sexualised chat but if it does not involve incitement to commit offences, direct sexual activity or preparation to meet then we are always struggling. Clearly there are no direct offences committed under the Sexual Offences Act 2003."*
2. One **police officer** explicitly said current legislation does not deal with online grooming. When a sexual message is reported, they will try to find evidence and prosecute on the offence of possessing child abuse images or a similar offence, as prosecutions are not possible on sexual messaging alone.
3. When asked if a standalone offence would make a difference, **Detective Inspector Rob Chitham from Kent Police** said: *"If such a law was enacted, it would significantly enhance our ability to deal more effectively with online offences, and go a long way to safeguard children exposed to such offences."*

Existing legislation

There have been suggestions that there is already adequate provision in existing law to cover online grooming. The NSPCC does not agree. Existing legislation is not clear and in many cases, the defence could argue that the threshold required for the communication to be covered by the offence had not been met.

- **Sexual Offences Act (2003)** and further Northern Irish legislation only covers situations where it can be proved that the adult intends to meet a child and is therefore inadequate in protecting children from online abuse and grooming. Increasingly abusers online have no intention to meet and abuse children physically, making this legislation insufficient.
- **Malicious Communications Act (1988)** – under this legislation, there must be intent to cause distress or anxiety, but abusers often groom children by flattering them and making them feel special in order to gain their trust. Importantly, anyone convicted of this offence would not be subject to sex offender registration and notification requirements.
- **Communications Act (2003)** – the defence could argue that the threshold of a message which is “grossly offensive or of an indecent, obscene or menacing character” has not been met. Again, anyone convicted of this offence would not be subject to sex offender registration and notification requirements. This Act also does not cover the use of private networks to communicate.

Case study

In a recent case, a male adult defendant targeted three victims; two girls aged 14 and one girl aged 13. He began to talk to them in an inappropriate manner, referring to having sex with them, which made them uncomfortable.

The defendant sent the 13 year old girl messages saying he wanted to have sex with her. She was so traumatised she told her father who called the police and installed a panic alarm in the house.

The defendant was charged with ‘minor’ harassment offences.

The Judge felt this did not reflect the level of ‘seriousness’ displayed by the Defendant’s behaviour, but he could not be charged with an offence under the Sexual Offences Act (2003), as the burden of proof to show that he was inciting sexual activity had not been met.

Progress via the Serious Crime Bill

An amendment aimed at correcting the *Flaw in the Law* was introduced in the House of Lords at Report Stage, and again at Third Reading. **At Third Reading the Government concurred with the NSPCC’s view** that “we need to move further upstream in intervening at an earlier stage”, and that legislatively, “**a gap needs to be filled**” in relation to sexual messaging and online grooming.

How you can help

We would be extremely grateful if you could **speak in support of the creation of a stand-alone offence of an adult intentionally sending a sexual message to a child at the Second Reading of the Serious Crime Bill.**

About the NSPCC

The NSPCC is fighting to end child abuse in the UK by helping children who have been abused to rebuild their lives, protecting children at risk, and finding the best ways of preventing child abuse from happening. We achieve this through a combination of service provision, campaigning and public education.

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